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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,035	07/28/2003	Darryl C. Stein	G48-1386-1	9023
27123	7590	06/15/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,035

Applicant(s)

STEIN ET AL.

Examiner

Carolyn T. Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 7-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 7-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 30, 2005.
2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 230, 237, 246, and 250.
4. The drawings are objected to because the relationship between FIG 1 and FIGS 2-4 is unclear. For example, it is not understood where the mounting bracket (FIG 2) is located in FIG 1. It is also not understood where the pickup (FIGS 2-4) is located in FIG 1. Further clarification is required.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following:

- Page 5, line 16: The reference number "20" should be changed to - - 21- - in order to agree with the drawings.
- Page 5, lines 5-6: The phrase, "The reciprocation assembly 30, also in response to commands issued from the controller 21 moves between" should be changed to - - The reciprocation assembly 30, also in response to commands issued from the controller 21, moves between- -.

- A description of FIG 4 is missing from the specification.

Appropriate corrections are required.

Claim Objections

7. Claim 1 is objected to because of the following informalities: the semicolon after "including" in line 2 should be changed to a colon. Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearl (3,815,221) in view of Henninger (3,274,409), and in further view of Balamuth et al (3,086,288). Pearl discloses an apparatus for cutting sheet type work (30) comprising a blade (18) defining at least one sharpened edge; a frame (12) having a support surface (16) mounted thereon for carrying at least one layer of a sheet-type work material (30); a carriage (22) coupled to said frame (12) for movement back-and-forth there along in a first coordinate direction in response to commands issued from a controller (26); a cutter head (20) coupled to said carriage (22) for movement back-and-forth in a second coordinate direction also in response to commands issued from said controller (26), said second coordinate

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direction being approximately perpendicular to said first coordinate direction. Pearl fails to disclose the means for actuating the blade or a resonator assembly. However, Henninger discloses a resonator assembly including: a magnetically permeable beam (12); an element (20/21) coupled to said beam (12); a magnetic pickup (14) coupled to said beam (12); at least one discrete magnet (32) positioned proximate said pickup (14), said magnet (32) and said pickup (14) defining an air gap there between; resonating means for moving said at least one discrete magnet (32) relative to said pickup (14) to create an alternating magnetic field, thereby causing said pickup (14) to vibrate, which in turn cause said beam (12) and said element (20/21) to vibrate. Furthermore, Henninger discloses the resonating means includes: a magnet retainer (25) having a plurality of magnets (32) coupled thereto; a motor; said magnet retainer (25) being rotatably coupled to said motor (by shaft 7); and wherein rotation of said motor and thereby said magnet retainer (25) causes at least one magnet (32) to pass by said pickup (14) at a known frequency thereby generating an alternating magnetic flux that in turn causes said element (12) to resonate. Henninger discloses a mounting bracket (16/167, said beam (12) being attached to and cantilevered from said mounting bracket (16/17). The Henninger resonator assembly is fairly small in size and lightweight, while still being powerful and efficient (see. col. 1, lines 35-36 and lines 42-43). In addition, Balamuth et al disclose advantages for using a vibrating blade in cutting operations, particularly for cutting fabrics and leather. Balamuth et al disclose a vibrating blade requires less force (col. 1, lines 45-49) and creates a

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cleaner cut (col. 1, lines 53-56) than a blade that is not vibrating. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a small, lightweight, powerful, and efficient resonator assembly, as disclosed by Henninger, on the Pearl device for the purpose of vibrating the blade, which Balamuth et al disclose creates as clean cut with less force.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wheeler (2,344,928), Noveske (3,151,514), Galan et al (5,012,584), and Suter (5,868,055) disclose apparatuses for cutting. Bertaux (2,700,251), Wintermute (2,814,356), Gladstone (3,223,865), Beck et al (3,323,355), Bakker et al (3,328,615), and Dietsch (3,349,305) disclose resonator assemblies.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CB
June 10, 2005

Allan N. Shoap
Supervisory Patent Examiner
Group 3700